IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

JUDGMENT

D.B. CIVIL SPECIAL APPEAL NO.180/2005

Kailash Pahadia **Vs**. The State of Raj. & Anr.

Date of judgment : 22nd March, 2006

PRESENT

HON'BLE MR.JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE R.P. VYAS

Mr. Harish Purohit for the appellant.
Mr. L.R. Upadhyay, Dy. Government Advocate.

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Heard learned counsel for the parties.

This appeal arise out of S.B. Civil Writ Petition No.3083/2001 which has been dismissed by learned Single Judge vide judgment under appeal.

The appellant holds a degree of Bachelors of Arts with optional subjects of English, Psychology and Public Administration. On the basis of these optional subjects, the petitioner was admitted to B.Ed. Course for which eligibility criteria is admittedly that a candidate must have two teaching subjects taught at Secondary in graduate level examination for

being admitted to the B.Ed. Course. Thus, the petitioner was considered eligible as he was considered to be having two teaching subjects with the aforesaid optional subjects while he was admitted to B.Ed. Course and successfully passed the B.Ed. Course.

Thereafter he applied for consideration of his appointment as Senior Teacher in pursuance of advertisement Annex.3 issued by the Dy. Director (Secondary), Department of Education, Udaipur Zone, Udaipur. The requirement was for the posts of Senior Teacher in mathematics, Senior Teacher in English and Senior Teacher in Botany. However, the petitioner was not considered inter alia on the ground that he did not have two optional subjects in his graduation course which are being taught at secondary level.

The learned Single Judge sustained the objections raised by the respondents and dismissed the writ petition.

However, apparently, the judgment under appeal does not notice that the very qualification has been considered fulfilling the requirement of eligibility to the admission to

the course of B.Ed. namely he had two teaching subjects at secondary level in graduation. On the basis of this admitted position, merely on the basis of nomenclature of the subjects the candidature of the appellant-petitioner could not have been considered. Since he has been denied consideration for appointment in clear violation of law, therefore, he is entitled to be considered for appointment.

Accordingly, the appeal is allowed. The judgment under appeal is set aside. The respondents are directed to consider the claim of the petitioner as eligible candidate for being appointed as Senior Teacher and, if otherwise found suitable, offer him appointment within three months.

No costs.

[R.P. VYAS], J. [RAJESH BALIA], J.

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